

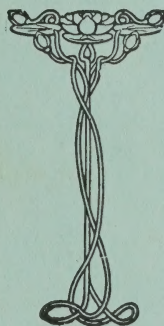
LINCOLN

— AS —

AN ADVOCATE

BY

Allen Henry Wright



(RE-PRINTED)

FROM THE GREEN BAG
OF FEBRUARY, 1908



Presented to
Dr Louis A. Warren
with the compliments of
Allen H. Wright
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1938

A New Light on
Abraham Lincoln
As An Advocate

An Interview by Allen H. Wright
with W. H. Somers,
former Clerk of the Circuit Court
in Champaign County,
Illinois.

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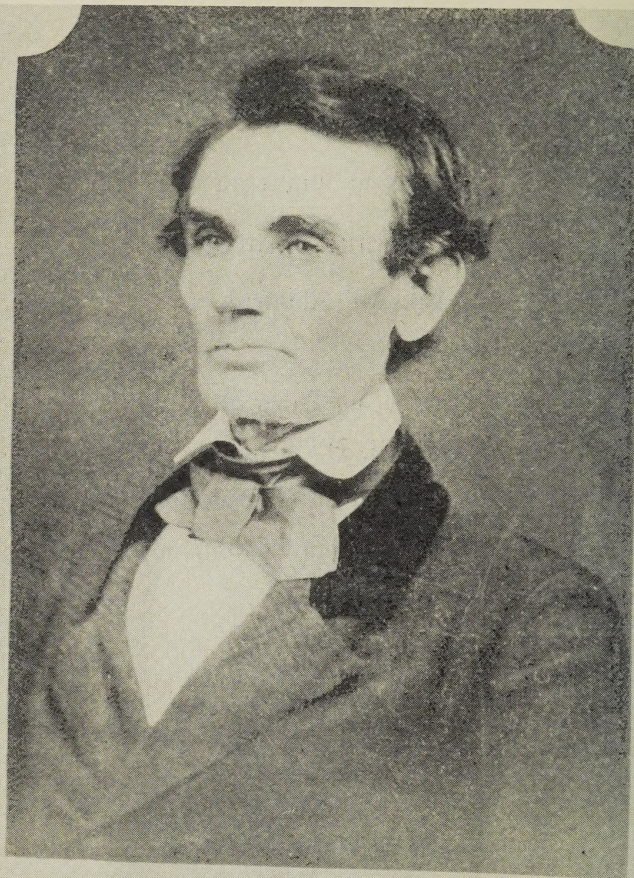


PHOTO FROM AMBROTYPE TAKEN
AT URBANA, ILL. IN THE FALL OF
1857.

Copyright by W. H. SOMERS. 1885.

LINCOLN AS AN ADVOCATE

In the city of San Diego, California, lives today (1908) W. H. Somers, who, for several years following 1856, was clerk of the circuit court of Champaign county, Illinois, before which tribunal Abraham Lincoln frequently appeared as an advocate and counsel, and even, occasionally, sat on the bench for Judge Davis, the presiding judge of the court. In his capacity as clerk Mr. Somers came to know the great Lincoln quite intimately, and hence his reminiscences have more than a passing interest. In telling of his memories of the Emancipator, Mr. Somers says:

"I remember Lincoln as a tall, broad-shouldered man, slightly stooping, with a rather angular or sharp face, which had a most genial, kindly expression, and, though not handsome, was attractive and prepossessing—a face once seen, never to be forgotten. Mr. Lincoln was a very affable man, always having a pleasant word for everyone. I shall never forget the time nor his kindly act when, sitting at my desk in the capacity of clerk of the court, on opening day, with judge and lawyers taking their accustomed places preparatory to commencing the day's business, he approached me with extended hand, and, grasping mine cordially, in a few pleasant words congratulated me on my election.

"I was a young man then and, having previously been known personally to Mr. Lincoln but slightly in my capacity as deputy in the same court, I was not a little surprised at this recognition among so many acquaintances, there being at the time about two score attorneys in attendance. Considering that his life was a busy one during those days, his law practice being large and lucrative, this little act of courtesy was a key to his great popularity with all classes of people—he always had time to be friendly.

“Right here I want to disprove the silly charge made against him by his enemies in those days to the effect that he was only a second or third-rate lawyer—a charge that sufficed to create in the public mind, during his first candidacy for the presidency, the impression that such was the fact. Nothing was further from the truth. Among the members of his profession there were several profound lawyers and jurists, including Judge David Davis, afterwards an associate justice of the Supreme Court of the United States, and the uniform verdict of these men was that Mr. Lincoln occupied, and pre-eminently so, the leading position at the bar in that circuit, if not in the entire state of Illinois.

“Anyone who ever heard his masterly and logical arguments before court or jury will, I am sure, concur with me in the statement that no counsel more able or advocate more eloquent ever espoused a just cause. On the wrong side of a case, it is true he was weak, because he could not be forcible if he believed himself in the wrong—his head and his heart must go together. His love of justice and fair play was his predominant trait. It was not in his nature to assume, or attempt to bolster up, a false position. He would abandon his case first.

“In a case tried in my own county, after he had heard the evidence, he said to his associate: ‘The man is guilty. You defend him. I cannot.’ A large fee was won, but he would not take a cent. In trying a case before a jury his methods were peculiar. First, he would make as strong a showing as he could for the opposite side, seeming to be giving away his case, so much so as frequently to frighten his client, but, later, turning to his own side, he would utterly demolish his previous arguments and thus ruthlessly knock down the ‘cob-house’ so carefully constructed for his adversary. This style of argument was, of course, very captivating and convincing as it showed to the jury his perfect fairness. He was willing to concede to his opponent everything that justly belonged to him, and if he could not do that, and still win the case, he would not take it in the first place.

“In those days, before railroads ran to nearly every town as they do now, attorneys were accustomed to attend all the courts in the circuit, and to accompany each other on horse-

back. On one occasion Mr. Lincoln rode up to the tavern, where he usually put up, a day or two after the other lawyers had arrived, and on being pleasantly rallied by the landlord for his tardiness, responded, using an apt illustration, 'Well, uncle, you know as the drove of cattle are driven along the largest animals always fall behind.' When it is remembered that Mr. Lincoln was very tall, the humor of his remark can be appreciated.

"It was about this time, also, but on another journey of a similar character, that he was riding alone and came across a pig deeply mired in the mud by the roadside. Feeling compassion for the 'porker,' his first impulse was to help the struggling animal out of its sad predicament but, looking at the mud and then at his new suit of clothes, he reluctantly rode away, leaving it to its fate. As he rode on, however, he could not forget the pig, and the further he got away from it, the worse he felt. He finally turned around and rode back the nearly two miles, dismounted, built a passageway of old rails from dry ground to the pig, and with great difficulty extricated it, but not without soiling his clothes. Afterwards, when thinking about it, in an endeavor to analyze, as he said, the motive which prompted him to the act he concluded that it was selfishness, and that he had to do it in order to take the pain out of his mind.

"Should Mr. Lincoln fail to put in an appearance at any term of court in the circuit of Champaign, one of the eight counties embraced in the eighth judicial circuit of the state, the entire membership of the bar felt disappointed, for all entertained a warm friendship for him. His propensity for story telling, of course, attracted people to him, but his great ability before a jury would, when it was known that he was to make an argument, invariably fill the court room. Attorneys generally considered it a 'drawing card' to be associated with him in a trial.

"Judge Davis, the presiding judge, quite frequently called Mr. Lincoln to take his place on the bench, when he wished to retire to give himself a needed rest from the exhausting labors of the position, for court opened promptly at 9 o'clock in the morning every day, and was continued in session until 6 o'clock

in the evening, and not infrequently a night session followed. This practice on the part of Judge Davis was for the purpose of expediting business and saving parties to the suits time and expense in attending court. Mr. Lincoln always cheerfully complied with the judge's request to take his seat, although the legality of the appointment might have been called in question. Technicalities, however, were not then taken advantage of as in these days.

"Mr. Lincoln always shunned and abhorred technicalities and would get down to the merits of the case without a very strict observance of the rules of pleading. Quite an amusing incident occurred one time, while he was thus holding court, which very forcibly illustrates this characteristic. A demurrer had been filed in a case, which the attorney who had interposed it requested the acting judge to turn to on the docket so that he might take it up. The demurrer, however, could not be found, and after a somewhat tedious search and a good deal of sparring between the opposing counsel, Mr. Lincoln asked the attorney to state the grounds of his demurrer. This having been done, and seeing that it was interposed merely for delay, he promptly overruled it in this facetious order: 'Demurrer overruled—if there ever was any,' which order was duly entered of record.

"Frequently I was invited to join the groups of attorneys at the taverns in the evenings after the day's court duties were over, and I always gladly accepted, for the opportunity of hearing and enjoying the good stories, of which they all had an ample fund.

"There was one thing I observed in these gatherings, which I wish to mention since it throws much light on the temperance habits of Mr. Lincoln. Some of the lawyers who were bibulously inclined had improvised a bar, and provided the liquors for all that wished to partake. Among these genial and happy fellows there were two who absolutely refrained from drinking. These two were Judge Davis and Mr. Lincoln.

"Lincoln was always exceedingly kind to young lawyers just beginning their careers. No member of the bar took a

greater interest in them; and no doubt many of the young men who began practice on that circuit owe their subsequent success in life to the kindly encouragement and assistance he gave them.

“When thinking of him I am prompted to quote, as specially applicable, these words from Shakespeare:

‘His life was gentle, and the elements
So mixed in him, that Nature might stand up
And say to all the world: This is a man.’”

Note—Mr. Somers has since died.



